

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:08-CR-105-D-2
No. 5:12-CV-404-D

BRANDON MICHAEL JONES,)	
)	
Petitioner,)	
)	
v.)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

On July 2, 2012, Brandon Michael Jones (“Jones”) filed a motion to vacate, set aside, or correct his sentence, pursuant to 28 U.S.C. § 2255 [D.E. 137]. The government concedes that Jones should be resentenced on count one in light of United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc). See [D.E. 151]. Specifically, the government concedes that the statutory maximum on count one is now 60 months. See [D.E. 151] 2. Additionally, the government consents to resentencing on count seven and contends that the statutory minimum on count seven is now 120 months. See id. n.1.

The court agrees that Jones should be resentenced on count one. Because the court needs to resentence Jones on count one and in light of the government’s concession about count seven, the court also will resentence Jones on count seven. Jones’s sentence on count three, however, is not affected by his section 2255 motion.

To the extent that Jones seeks relief under 28 U.S.C. § 2255 as to counts one and seven, the motion [D.E. 137] is GRANTED. To the extent that Jones seeks relief under 18 U.S.C. § 3582(c)

as to counts one and seven, the motion [D.E. 147] is GRANTED. Jones's motions to vacate his plea agreement [D.E. 126] and for an extension of time [D.E. 130] are DISMISSED AS MOOT. Jones shall be transported to Raleigh for resentencing on counts one and seven.

SO ORDERED. This 16 day of April 2013.



JAMES C. DEVER III
Chief United States District Judge